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Amended Complaint

IN The United States District Court
For The Middle District Of Pennsylvania

Darrell Eley **FILED**
HARRISBURG, PA Civil No. 1:21-CV-02184

Plaintiff, MAR 24 2023

V. PER JBR
DEPUTY CLERK

Superintendent Brittain et al, Judge Jennifer P. Wilson
Defendants,

I. Jurisdiction and Venue

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under Color of State law, of rights secured by the Constitution of the United States.
2. The United States District Court for The Middle District Of Pennsylvania is an appropriate venue under 28 U.S.C. Section 1391 (b)(2) because it is where the events giving rise to this claim occurred.

II. Plaintiffs

3. Plaintiff, Darrell Donta Eley, is and was at all times mentioned herein a prisoner of the State of Pennsylvania in the custody of the Pennsylvania Department of Corrections. He is currently confined in SC2- Forest in Marienville PA.

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III Defendants

4. Defendant, K. Brittain is the Superintendent of SCI-Frackville. She is legally responsible for the operation of SCI-Frackville and for the welfare of all inmates in that prison.
5. Defendant, S. Kephart is a correctional officer of the Pennsylvania Department of corrections who, at all times mentioned in this complaint, held the rank of Deputy D.S.C.S and was assigned to SCI-Frackville.
6. Defendant N. Wynder is a correctional officer of the Pennsylvania Department of corrections who, at all times mentioned in this complaint, held the rank of Deputy D.S.F.m and was assigned to SCI-Frackville.
7. Each defendant is sued individually and in her and his official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

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IV. State of Claim

8. ON 11-5-21 IN SCI-FRACKVILLE I WAS BROUGHT TO THE RTHU AND PLACED ON AC UNDER INVESTIGATION WITH NO WRITE UP OR DC 141 FORM. IT IS D.O.C. POLICY I BE SERVED A 802 FORM WITHIN 24 HRS OF BEING PLACED IN THE RTHU. THIS 24 WINDOW DOES NOT EXCLUDE WEEKENDS. I WAS SERVED A 802 FORM 80 HRS LATER VIOLATING D.O.C. POLICY AND MY 14TH AMENDMENT RIGHT TO DUE PROCESS. IT IS ALSO D.O.C. POLICY I HAVE AN ADMINISTRATIVE HEARING FOR AC PLACEMENT WITHIN SEVEN WORKING DAYS OF THE PLACEMENT. THE STANDARDS FOR SUCH HEARINGS ARE ATTACHED MARKED EXHIBIT A. I HAD NO SUCH HEARING AT ALL NEVER THE LESS MEETING D.O.C. ADM 802 POLICY OR THE STANDARD SET IN WOLFF. VIOLATING MY 14TH AMENDMENT RIGHTS FOR THE SECOND TIME. IT IS 802 POLICY THAT CONFINEMENT FOR AC INVESTIGATIVE PURPOSES SHALL NOT EXCEED 15 CALENDAR DAYS. THE FACILITY MANAGER CAN GRANT ONE 15 DAY EXTENSION IF THE INVESTIGATION IS NOT COMPLETE. THE EXTENSION MUST BE DOCUMENTED AND A COPY MUST BE GIVEN TO THE INMATE. AFTER 30 DAYS THE INMATE MUST BE CHARGED WITH A MISCONDUCT OR RELEASED BACK TO GP.

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This policy is attached marked exhibit B.
I remained in the RHU ON AC investigation for 132 days (11-5-21 - 3-17-22) while never being served a 802 15 day extension form and never being charged a misconduct or released to GP violating my 14th Amendment right for a 3rd time.

V Exhaustion of legal remedies

9. I never had a hearing to appeal but I still did my due diligence and wrote PRC to appeal the AC status on 11-10-21 which received no answer. I wrote Superintendent to appeal AC placement on 11-10-21 which also was ignored. I waited over a month before I wrote an appeal to the Chief hearing examiner (exhibit attached to original complaint) which was answered but I never received answer until defendants filed their briefs and motions and marked letter as an exhibit. I further did my due diligence in an attempt to exhaust all remedies and filed several grievances on 11/9/21 and 12/6/21 which were both denied. Stating I could only appeal under 802 policy which I already did despite the defendants attempts to hinder me.

VI. Legal Claims

10. Plaintiffs reallege and incorporate by reference Paragraphs 1-10.
11. The Not having a hearing per DC-ADM 802 policy or meeting the Standards set in Wolff v. McDonnell, not serving me a 802 form within 24 hrs and leaving me in the RHM in AC for 132 days without serving me a write up (DC-141) or an 802 investigation extension form violated Plaintiff Darrell Eley's right to due process under the 14th Amendment to the United States Constitution.
12. The Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this court grants the Declaratory relief which Plaintiff seeks.

VII Prayer for relief

Wherefore, Plaintiff respectfully prays that this court enter Judgment granting Plaintiff:

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13. A Declaration to the acts and omissions described herein violated plaintiff's rights under the Constitution and laws of the United States.
14. Compensatory damages in the amount of \$250 per day spent in the RHU (132) totaling \$33,000 against each defendant, jointly and severally.
15. Punitive damages in the amount of \$5,000 against each defendant for knowingly violated policy.
16. A Jury trial on all issues triable by jury.
17. Plaintiff's costs in this suit.
18. Any additional relief this court deems just, proper, and equitable.

3/9/23 Respectfully Submitted,

Darrell Eley mu3/26 SCI-Forest
P.O. Box 307

286 woodland Drive

Marienville, PA 16239

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I have read the foregoing Complaint and hereby verify that the matters alleged herein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under the penalty of perjury that the foregoing is true and correct.

Executed at Marienville Pennsylvania
SCZ- Forest on 3/9/23


Darrell Eley

U.S. DEPT. OF AGRICULTURE

5065

Smart Communications / PA DOC
Inmate Name Daneley
SCI Forest
PO Box 33028
St Petersburg, FL 33733

DC # mu3126
INMATE
MAIL

neopost
03/22/2023
FIRST-CLASS MAIL
US POSTAGE \$000.60



ZIP 16239
041L12206276

RECEIVED
HARRISBURG, PA

MAR 24 2023

SH

PER DEPUTY CLERK

Office of the clerk
United States District Courthouse
228 Walnut St
P.O. Box 983
Harrisburg, PA 17108

17108-0983 Harrisburg, PA Dept of Corrections